

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Randall White, #54521-004,)	
)	C/A No. 6:12-0865-MBS
Plaintiff,)	
)	
vs.)	ORDER
)	
Kimberly Paschal, Assistant Chief U.S.)	
Probation Officer; Dickie Brunson, Chief)	
Probation Officer; Agencies,)	
)	
Defendants.)	
_____)	

Plaintiff Randall White is an inmate in custody of the Federal Bureau of Prisons. He currently is housed at FCI-Miami in Miami, Florida. Plaintiff, proceeding pro se, filed a complaint on March 26, 2012, appearing to allege that his constitutional rights have been violated because of alleged false information in his presentence report. Plaintiff brings this action pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403, U.S. 388 (1971).

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Kevin F. McDonald for pretrial handling. The Magistrate Judge reviewed the complaint pursuant to the provisions of 28 U.S.C. § 1915. On April 24, 2012, the Magistrate Judge filed a Report and Recommendation in which he found that (1) Plaintiff's due process rights at sentencing were not violated, because he had the opportunity to challenge information in the presentence report; and (2) Plaintiff's equal protection rights were not violated because the presentence report was used in determining his custody and security classification level. Accordingly, the Magistrate Judge recommended that the complaint be summarily dismissed without prejudice. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has

no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. This court is obligated to conduct a de novo review of every portion of the Magistrate Judge's report to which objections have been filed. Id. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. The complaint is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Chief United States District Judge

Columbia, South Carolina

May 17, 2012

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.